

19-2-104. Powers of board.

(1) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source;

(b) establishing air quality standards;

(c) requiring persons engaged in operations which result in air pollution to:

(i) install, maintain, and use emission monitoring devices, as the board finds necessary;

(ii) file periodic reports containing information relating to the rate, period of emission, and composition of the air contaminant; and

(iii) provide access to records relating to emissions which cause or contribute to air pollution;

(d) (i) implementing:

(A) Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency Response, 15 U.S.C. 2601 et seq.;

(B) 40 C.F.R. Part 763, Asbestos; and

(C) 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants, Subpart M, National Emission Standard for Asbestos; and

(ii) reviewing and approving asbestos management plans submitted by local education agencies under the Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency Response, 15 U.S.C. 2601 et seq.;

(e) establishing a requirement for a diesel emission opacity inspection and maintenance program for diesel-powered motor vehicles;

(f) implementing an operating permit program as required by and in conformity with Titles IV and V of the federal Clean Air Act Amendments of 1990;

(g) establishing requirements for county emissions inspection and maintenance programs after obtaining agreement from the counties that would be affected by the requirements;

(h) with the approval of the governor, implementing in air quality nonattainment areas employer-based trip reduction programs applicable to businesses having more than 100 employees at a single location and applicable to federal, state, and local governments to the extent necessary to attain and maintain ambient air quality standards consistent with the state implementation plan and federal requirements under the standards set forth in Subsection (2);

(i) implementing lead-based paint remediation training, certification, and performance requirements in accordance with 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406; and

(j) to implement the requirements of Section 19-2-107.5.

(2) When implementing Subsection (1)(h) the board shall take into consideration:

(a) the impact of the business on overall air quality; and

(b) the need of the business to use automobiles in order to carry out its business purposes.

- (3) (a) The board may:
- (i) hold a hearing that is not an adjudicative proceeding relating to any aspect of, or matter in, the administration of this chapter;
 - (ii) order the director to:
 - (A) issue orders necessary to enforce the provisions of this chapter;
 - (B) enforce the orders by appropriate administrative and judicial proceedings; or
 - (C) institute judicial proceedings to secure compliance with this chapter; or
 - (iii) advise, consult, contract, and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, the federal government, or interested persons or groups.
- (b) The board shall:
- (i) to ensure compliance with applicable statutes and regulations:
 - (A) review a settlement negotiated by the director in accordance with Subsection 19-2-107(2)(b)(viii) that requires a civil penalty of \$25,000 or more; and
 - (B) approve or disapprove the settlement;
 - (ii) encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;
 - (iii) require the owner and operator of each new source which directly emits or has the potential to emit 100 tons per year or more of any air contaminant or the owner or operator of each existing source which by modification will increase emissions or have the potential of increasing emissions by 100 tons per year or more of any air contaminant, to pay a fee sufficient to cover the reasonable costs of:
 - (A) reviewing and acting upon the notice required under Section 19-2-108; and
 - (B) implementing and enforcing requirements placed on the sources by any approval order issued pursuant to notice, not including any court costs associated with any enforcement action;
 - (iv) meet the requirements of federal air pollution laws;
 - (v) by rule, establish work practice, certification, and clearance air sampling requirements for persons who:
 - (A) contract for hire to conduct demolition, renovation, salvage, encapsulation work involving friable asbestos-containing materials, or asbestos inspections if:
 - (I) the contract work is done on a site other than a residential property with four or fewer units; or
 - (II) the contract work is done on a residential property with four or fewer units where a tested sample contained greater than 1% of asbestos;
 - (B) conduct work described in Subsection (3)(b)(v)(A) in areas to which the general public has unrestrained access or in school buildings that are subject to the federal Asbestos Hazard Emergency Response Act of 1986;
 - (C) conduct asbestos inspections in facilities subject to 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or
 - (D) conduct lead paint inspections in facilities subject to 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;
 - (vi) establish certification requirements for persons required under 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to be accredited as inspectors, management planners,

abatement project designers, asbestos abatement contractors and supervisors, or asbestos abatement workers;

(vii) establish certification requirements for asbestos project monitors, which shall provide for experience-based certification of persons who, prior to establishment of the certification requirements, had received relevant asbestos training, as defined by rule, and had acquired at least 1,000 hours of experience as project monitors;

(viii) establish certification procedures and requirements for certification of the conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the tax credit granted in Section 59-7-605 or 59-10-1009;

(ix) establish a program to certify private sector air quality permitting professionals (AQPP), as described in Section 19-2-109.5;

(x) establish certification requirements for persons required under 15 U.S.C.A. 2601 et seq., Toxic Control Act, Subchapter IV -- Lead Exposure Reduction, to be accredited as inspectors, risk assessors, supervisors, project designers, or abatement workers; and

(xi) assist the State Board of Education in adopting school bus idling reduction standards and implementing an idling reduction program in accordance with Section 41-6a-1308.

(4) Any rules adopted under this chapter shall be consistent with provisions of federal laws, if any, relating to control of motor vehicles or motor vehicle emissions.

(5) Nothing in this chapter authorizes the board to require installation of or payment for any monitoring equipment by the owner or operator of a source if the owner or operator has installed or is operating monitoring equipment that is equivalent to equipment which the board would require under this section.

(6) (a) The board may not require testing for asbestos or related materials on a residential property with four or fewer units, unless:

(i) the property's construction was completed before January 1, 1981; or

(ii) the testing is for:

(A) a sprayed acoustical ceiling;

(B) transite siding;

(C) vinyl floor tile;

(D) thermal-system insulation or tape on a duct or furnace; or

(E) vermiculite type insulation materials.

(b) A residential property with four or fewer units is subject to an abatement rule made under Subsection (1) or (3)(b)(v) if:

(i) a sample from the property is tested for asbestos; and

(ii) the sample contains asbestos measuring greater than 1%.

(7) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-2-107 or 19-2-108:

(a) a permit;

(b) a license;

(c) a registration;

(d) a certification; or

(e) another administrative authorization made by the director.

(8) A board member may not speak or act for the board unless the board

member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

(9) Notwithstanding Subsection (7), the board may exercise all authority granted to the board by a federally enforceable state implementation plan.

Amended by Chapter 230, 2014 General Session